

RECEIVED
CENTRAL FAX CENTER

JAN 03 2005

Customer No. 33647

Patent
Attorney Docket No. ITW7510.030

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Cigelske, Jr. et al.
Serial No. : 10/065,571
Filed : October 31, 2002
For : SYSTEM FOR ASSEMBLING WELDING APPARATUS
Group Art No. : 1725
Examiner : Tran, L.

CERTIFICATION UNDER 37 CFR 1.8(a) and 1.10

I hereby certify that, on the date shown below, this correspondence is being:

☐ deposited with the US Postal Service in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

☐ with sufficient postage as first class mail ☐ As "Express Mail Post Office to Addressee" Mailing Label No.

Transmission

☒ transmitted by facsimile to Fax No.: 703-872-9306 addressed to Examiner Tran at the Patent and Trademark Office.

Date: 8-19-04

Signature

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDMENT/RESPONSE TO
OFFICE ACTION MAILED MAY 21, 2004

Dear Sir:

Responsive to the Office Action mailed May 21, 2004, please enter and consider the following remarks.

Docketed by: DJE
Date: 8-23-04

Cigelske, Jr. et al.

S/N: 10/065,571

In the Claims

1. (Original) A welding apparatus comprising an enclosure, an end panel having a receptacle area formed therein and a base having an end interfitted into the receptacle area of the end panel, the base having at least one snap having a distal end with an opening therein and extending outwardly from the end of the panel, the end panel having at least one ramp formed thereon that is generally in alignment with the at least one snap, whereby the distal end of the at least one snap is engaged to the at least one ramp to retain the end panel to the base.
2. (Original) The welding apparatus as defined in claim 1 wherein the end panel and base are comprised of molded plastic materials
3. (Original) The welding apparatus as defined in claim 1 wherein the at least one snap is a U-shaped configuration with the closed distal end extending outwardly from the molded end panel.
4. (Original) The welding apparatus as defined in claim 1 wherein the at least one snap comprises a pair of snaps formed at the end of the base and the at least one ramp comprises a pair of ramps formed in the receptacle area of the end panel.
5. (Original) The welding apparatus as defined in claim 1 wherein the receptacle area comprises angled internal lateral surfaces and the base includes angled external sides adapted to interfit in close proximity to the angled internal surfaces of the end panel to stabilize the affixation of the base and the end panel.
6. (Original) The welding apparatus as defined in claim 1 wherein the base has an upper surface and the receptacle area includes a plurality of vertically oriented ribs adapted to fit over and contact the upper surface of the base to provide vertical stability to the base interfitted to the end panel.
7. (Original) The welding apparatus as defined in claim 1 wherein the at least one ramp formed within the receptacle area of the end panel has an upper surface inclined upwardly in the direction away from the base and ending in a rear vertical wall.

Cigelske, Jr. et al.

S/N: 10/065,571

8. (Original) The welding apparatus as defined in claim 7 wherein the distal end of the at least one snap locks against the rear vertical wall of the at least one ramp.
9. (Original) The welding apparatus as defined in claim 8 wherein the end panel has an access opening to allow access to the distal end of the snap to enable the vertical lifting of the distal end to detach the distal end from its locking engagement with the rear vertical wall of the at least one ramp to detach the base from the end panel.
10. (Original) A subassembly for a welding apparatus comprising a molded plastic base and a molded plastic end panel affixed together, the end panel having a receptacle area formed therein and the base having an end interfitted into the receptacle area of the end panel, the base having at least one snap having a distal end with an opening therein and extending outwardly from the end of the base, the end panel having at least one ramp formed thereon that is generally in alignment with the at least one snap, whereby the distal end of the at least one snap is engaged to the at least one ramp to retain the end panel to the base.
11. (Original) The subassembly as defined in claim 10 wherein the at least one ramp has a top surface that is inclined upwardly in the direction away from the base to form a vertical rear wall, and the end wall has a recess proximate to the rear wall.
12. (Original) The subassembly as defined in claim 10 wherein the end panel has an access opening to allow a tool to reach the distal end of the at least one snap to move the distal end vertically.
13. (Previously Presented) The subassembly as defined in claim 10 wherein the at least one snap comprises a pair of snaps and the at least one ramp comprises a pair of ramps.
14. (Original) The subassembly as defined in claim 11 wherein the at least one snap comprising a U-shaped snap having a closed distal end.
15. (Original) The subassembly as defined in claim 13 wherein the receptacle area has lateral internal surfaces and the base has lateral external sides that are complementarily

Cigelske, Jr. et al.

S/N: 10/065,571

configured to the lateral internal surface so that the lateral external sides of the base fit in a close mating relationship within the lateral internal surfaces of the receptacle area of the end panel.

16. (Original) The subassembly as defined in claim 15 where the lateral internal surfaces of the base are angled surfaces.

17. (Original) A method of assembling a end panel to the base of a welding apparatus, the method comprising the steps of:

providing a molded base with at least one snap having a distal end and an elongated opening formed therein, the at least one snap extending outwardly therefrom,

providing a molded plastic panel having at least one inclined ramp formed thereon leading to a vertical rear wall and having a recess formed proximate the rear wall,

inserting the molded base into the molded plastic panel to cause the snap to ride upwardly along the inclined ramp and enter into the recess to lock the distal end of the at least one snap against the rear wall of the at least one ramp to retain the base to the end panel.

18. (Original) The method as defined in claim 17 wherein the step of providing a molded base with at least one snap comprises providing a molded base with a pair of U-shaped snaps.

19. (Original) The method as defined in claim 17 wherein the molded plastic panel has an access opening proximate the rear wall of the ramp and the method further comprises the step of inserting a tool through the access opening to move the distal end of the snap vertically upwardly to unlock the snap from the rear wall of the ramp.

20. (Original) The method as defined in claim 17 wherein the step of providing at least one snap comprises providing a pair of snaps and the step of providing at least one ramp comprised providing a pair of ramps\

21. (New) The welding apparatus as defined in claim 1 wherein the at least one snap of the base is movable relative to the base to allow passage of the at least one ramp therealong.

Cigelske, Jr. et al.

S/N: 10/065,571

22. (New) The subassembly as defined in claim 10 wherein the at least one ramp of the end panel is immovably connected thereto in response to the at least one snap moving thereacross.

23. (New) The method as defined in claim 17 wherein the step of inserting the molded base further comprises deflecting the snap along the inclined ramp during insertion.

Cigelske, Jr. et al.

S/N: 10/065,571

REMARKS

Claims 1-20 are pending in the present application. In the Office Action mailed May 21, 2004, the Examiner rejected claims 1-20 under 35 U.S.C. §103(a) as being unpatentable over Achtner (USP 6,489,591) and further in view of Lentz (USP 4,368,563).

In rejecting claims 1-20, the Examiner states "it would have been obvious to one of ordinary skill in the art at the time Applicant's invention was made to provide a locking mechanism with a snap fit and a ramp as taught by Lentz, in Achtner in order to replace the fastening method of Achtner." The Examiner further states that, "the advantage of Lentz's locking means eliminates the use of screws or bolts." Contrary to the Examiner's assertion, "the level of skill in the art cannot be relied upon to provide the suggestion to combine references." MPEP §2143.01. MPEP §2143.03 further states that "[t]o establish *prima facie* obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art."

Claim 1 calls for, in part, a welding apparatus having an end panel having a receptacle area formed therein and a base having an end interfitted into the receptacle area of the end panel. Claim 1 further calls for the base to have at least one snap having a distal end with an opening therein and extending outwardly from the end of the panel and the end panel having at least one ramp formed thereon that is generally in alignment with the at least one snap, whereby a distal end of the at least snap is engaged to the at least one ramp to retain the end panel to the base.

Referring generally to Fig. 2 of Achtner, Applicant does not necessarily disagree that Achtner discloses a welding enclosure having a pair of end panels and a base. As shown in Fig. 2, base 2 includes a plurality of upturned flanges (no reference numbers) wherein two of the upturned flanges are at respective ends of the base and two curved flanges extend along the sides of base 2. The end flanges of base 2 of Achtner are constructed to abut front panel 3 and rear panel 5, respectively. As best shown on rear panel 5 in Fig. 2 of Achtner, a panel flange extends about a perimeter of rear panel 5 and is constructed to be positioned about the upturned side flanges of base 2. As such, end panels 3 and 5 of Achtner must be translated lengthwise relative to base 2 to allow the upturned side flanges of the base to be positioned within the end panel flange. Once orientated in such a position, fasteners are passed through the holes formed in the end panels and engage the holes formed in the upturned flanges of base 2. It is not until the fasteners are passed through the end panels and threadingly engage base 2 that the end panels are retained to the base. Simply, the combination of references does not disclose or suggest an

Cigelske, Jr. et al.

S/N: 10/065,571

enclosure assembly wherein engagement achieves retention of a pair of panels as called for in the claims.

Combining the snap and ramp connector disclosed in Lentz would require the end panels to be translatable vertically from the base in order to allow a snap/ramp engagement between the end panel and the end flange of the base. The curvature of the upturned side flanges of base 2 in cooperation with the end panel flange extending about a perimeter of rear panel 5 prevents such translation. Claim 1 calls for retention between the end panel and the base panel by the engagement of the end panel to the base panel. That is, positioning the end panels proximate the ends of the base of the present invention results in retention and engagement between the panels. Combining the snap and ramp configuration of Lentz with the enclosure assembly of Achtner does not result in such a construction. Additionally, the curved engagement between side flanges of base 2 and perimeter flange of panels 3, 5 of Achtner prevents the manipulation of the end panels relative to the base to allow a ramp or snap to engage the upturned flanges located at the ends of base panel 2. As such, the combination of Achtner and Lentz does not result in at least one snap engaged to at least one ramp to retain the end panel to the base. Additionally, such an engagement and retention assembly is unattainable from the combination of the references because of the engagement between the curved upturned side flanges of base 2 and the curved flange about the perimeter of end panels 3, 5. As such, that which is called for in claim 1 is not shown or disclosed in the combination of references.

Similarly, claim 10 calls for, in part, at least one snap engaged to at least one ramp of an end panel to retain the end panel to the base. As previously discussed, the combination of references does not achieve the engagement and retention of the end panel to the base as called for in claim 10. That is, the upturned flanges at the ends of base 2 of Achtner and the curved flanges about the perimeter of the end panels prevents the end panels for engaging and retaining the end panel about the upturned flanges at the ends of base 2. Likewise, claim 17 calls for, in part, inserting a molded base into a molded plastic panel to cause the snap to ride upwardly along the inclined ramp and enter into the recess to lock a distal end of at least one snap against the rear wall of at least one ramp to retain the base to the end panel. Such an assembly is unattainable by the combination of Achtner and Lentz. Furthermore, it is not the "snap" of Lentz that rides upwardly along the "ramp", rather it is the "ramp" that deflects downwardly to allow the seat belt loop to pass thereover. As shown in Fig. 5 of Lentz, the "ramp" housed in buckle 12 (Fig. 1) deflects downwardly in response to the "ramp" or clasp passing thereacross.

Cigelske, Jr. et al.

S/N: 10/065,571

Notwithstanding the patentable distinctions between the claims and the art of record addressed above, MPEP §2142 states that "[t]he burden of establishing a prima facie case of obviousness falls on the Examiner." Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). Accordingly, to establish a prima facie case, the Examiner must not only show that the combination includes each and every element of the claimed invention, but also provide "a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). That is, "[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art." MPEP §2143.01. "The fact that references can be combined or modified is not sufficient to establish prima facie obviousness." *Id.* When prior art references require a selected combination to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gained from the invention itself, i.e., something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination. *Uniroyal Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 U.S.P.Q.2d 1434 (Fed. Cir. 1988).

Applicant believes that a prima facie case of obviousness has not been established and one cannot be made based on the art of record. To establish a prima facie case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. MPEP §2143

Applicant believes that a prima facie case of obviousness cannot be made based on the art of record because, not only is the suggested combination unworkable as addressed above, the references are directed to very different purposes and there is no motivation to combine these references in a way done so by the Examiner, other than Applicant's own teaching. The Examiner has not established all of the criteria required to establish an obviousness rejection under MPEP §2143.

MPEP §2141 further states "the references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention" Simply, "one cannot use

Cigelske, Jr. et al.

S/N: 10/065,571

hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." (*In re Fritch*, 972 F.2d 1260, 23 USPQ 2d, 1780, 1784 (Fed. Cir. 1992) citing *In Re Fine*, 837 F.2d, 1071, 1075, 5 USPQ 2d, 1596, 1600 (Fed. Cir. 1988)). It is apparent that the Examiner has combined the references to form the rejection solely using the hindsight benefit of the claims and the present invention. That is, the Examiner has combined Aichtner, directed to a welding machine, with Lentz, directed to a seatbelt buckle. The Examiner has impermissibly used individual elements of unrelated references as a guide. One skilled in the art of welding enclosures would not look to a seat belt buckle, absent the teaching of the Applicant, to incorporate a snap and ramp connector to the formation of a welding housing. The Examiner has used Applicant's teaching as the basis to combine the seat belt teaching of Lentz with a welder assembly of Aichtner. The Examiner has concluded that one skilled in the art would be motivated to combine the teachings of Lentz and Aichtner in that Lentz's locking means eliminates the use of screws or bolts disclosed in Aichtner. However, the motivation to combine the references must come from the references themselves. There is no disclosure in Aichtner for connecting panels of an enclosure with anything other than fasteners and corresponding holes. Col. 3, lns. 28-35. Additionally, there is no disclosure in Lentz to suggest or motivate one skilled in this art to combine the seat belt buckle shown therein with an assembly connecting an end panel to a base forming an enclosure. Simply, Lentz is a relatively linear connection, i.e. a seatbelt, wherein the snap and ramp connector as called for in the claims of the present application form a connection of an enclosure having an end panel engaged and retained to a base. Therefore, not only do the references not include each and every element of the claims, the references do not provide the suggestion or motivation to combine the references in the manner suggested by the Examiner.

As such, at least for the reasons set forth above, that which is called for in claims 1, 10, and 17, is not shown or disclosed in the art of record nor do the references suggest or motivate the combination suggested by the Examiner. Therefore, claims 1, 10, and 17, and those claims that depend therefrom, are patentably distinct over the art of record.

Applicant has added new claims 21-23 to further define the present invention. No new matter has been added. These new claims are believed to be patentably distinct over the art of record. A Credit Card Authorization in the amount of \$54.00 is included herewith for entry and consideration of these new claims.

Cigelske, Jr. et al.

S/N: 10/065,571

Therefore, in light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-23.

Applicant appreciates the Examiner's consideration of these Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,



Timothy J. Ziolkowski
Registration No. 38,368
Direct Dial 262-376-5139
tjz@zpspatents.com

Dated: August 19, 2004
Attorney Docket No.: ITW7510.030

P.O. ADDRESS:
Ziolkowski Patent Solutions Group, LLC
14135 North Cedarburg Road
Mequon, WI 53097-1416
262-376-5170

Jan. 3. 2005 3:04PM

ZPS GROUP LLC

No.6484 P. 17

USPTO

8/19/2004 6:08 PM

PAGE 1/001

Fax Server

Auto-reply fax to 12623762994 COMPANY:

Auto-Reply Facsimile Transmission



TO:

Fax Sender at 12623762994

Fax Information

Date Received:

8/19/2004 6:04:51 PM [Eastern Daylight Time]

Total Pages:

11 (including cover page)

ADVISORY: This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMPE) section 306 et seq.

Received
Cover
Page
=====>

| | | | |
|--|---|---------------------|-----------------------|
| JAN 19. 2004 5:07 PM ZPS GROUP LLC | | No. 6277 P. | |
| Customer No. | 33547 | Patent | |
| | | Attorney Docket No. | ITW7510.030 |
| IN THE UNITED STATES PATENT AND TRADEMARK OFFICE | | | |
| In re Application of | Cigelske, Jr. et al. | | |
| Serial No. | 10065,571 | | |
| Filed | October 31, 2002 | | |
| For | SYSTEM FOR ASSEMBLING WELDING APPARATUS | | |
| Group Art No. | 1725 | | |
| Examiner | Troy, L. | | |
| CERTIFICATION UNDER 37 CFR 1.6(a) and 1.19 | | | |
| I hereby certify that, on the date shown below, the correspondence is being: | | | |
| Mailing | | | |
| a. deposited with the U.S. Postal Service to be delivered addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 | | | |
| 37 CFR 1.6(a) 37 CFR 1.19 | | | |
| b. with sufficient postage as first class mail U.S. Air "Express Mail" Post Office to Addressee's Mailing Label No. | | | |
| Transmission | | | |
| c. transmitted by facsimile to Fax No.: 703-472-4226 addressed to Examiner Troy, L. at the Patent and Trademark Office. | | | |
| Date: | 8-19-04 | Signature: | <i>Jan A. Johnson</i> |
| Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450 | | | |
| AMENDMENT/RESPONSE TO OFFICE ACTION MAILED MAY 21, 2004 | | | |
| Dear Sir: | | | |
| Responsive to the Office Action mailed May 21, 2004, please enter and consider the following remarks: | | | |
| PAGE 1/11 * RCVD AT 8/19/2004 6:04:51 PM [Eastern Daylight Time] * SVR:USPTO-EFXXRF-1/3 * DNIS:8729306 * CSID:12623762994 * DURATION (mm-ss):04-26 | | | |